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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: DISAPPEARANCES AND SUMMARY EXECUTIONS

Written statement*/ submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 December 2000]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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ENG

Beatings of alleged criminals to death expose fatal flaws of the criminal justice system in Cambodia

1. Group killing of alleged criminals has become frequent practice in Cambodia. Pictures in newspapers publishing details of street executions clearly show policemen standing by while people attack and kill. These incidents are not accidental, but the product of a legal system that has proved itself incapable of dispensing justice objectively and a police force willing to incite violence as a rough substitute for the dispensation of legal justice.

2. When policing and judicial practices fail, street violence becomes a form of trial delivering an instant remedy to appease the appetites of people made insecure. Without recourse to legitimate remedies and with tacit approval of law enforcement agencies, people take to savage revenge. In Cambodia, none of those engaging in such killings have been arrested or brought to justice, even despite their photos being exhibited by the press.

3. A few cases from July to October 2000 serve to illustrate. On July 21, Song Veasna and Dy Hor were beaten to death and their corpses burned after alleged robbery of a motorcycle. On August 19, Rim Bros was taken from the police station at Sam Pov Loun district, Battambang, while he was under police custody for an alleged rape; his penis chopped off, he was beaten to death by a large mob armed with sticks and rocks. On September 15, Sna of Chankar Morn Section, Phnom Penh, was beaten to death at Dankor Market after attempting to escape from police, having been accused of theft of a gold watch. Alleged thieves of motorcycle taxis beaten to death on October 3-4 were Chea Pha, at Ang Snuol, along Highway 4 of Kandal province; Keng Kosal and Mun Nath at Trapeang Thloeung, Sangkat Chom Chau, Phnom Penh; and an unidentified person at Sangkat Boeng Keng Kong, Phnom Penh. For snatching a necklace, a student named Norng Darn was beaten to death on October 23 in front of You Nam Market, Kampuchea Krom Street, Phnom Penh. On October 27, another unidentified person was beaten to death at Street 219, Sangkat Sangkat Phsar Doeum Kor, Phnom Penh, for alleged theft of a bicycle.

4. These killings clearly violate article 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), which states that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." They also violate the right to fair trial enshrined in article 14 of the ICCPR. The Government of Cambodia has ratified the ICCPR and the Constitution explicitly upholds the ICCPR. Thus, these killings violate Cambodia's own fundamental law as well as its international obligations.

5. The Government of Cambodia is obliged to bring this practice to an end and punish all those who have engaged in it. As it has been legitimised through both the passive participation and instigation of the police, the government should explicitly prohibit gang killing via a pronouncement and a campaign to reinforce the message. The government must also appoint a commission to

inquire into these cases and scrutinise actions taken by the police to investigate and punish offenders.

6. These practices, however, are systemic; not the product of arbitrary mob violence or public outrage. They are rooted in the country's failure to develop a functioning criminal investigation system, without which there can be no fair trial. In the absence of criminal procedure, elements of the public are being encouraged to seek violent alternatives. A permanent solution can come only through legal and judicial reforms designed to make fair trial a possibility in Cambodia. Sadly, during the seven years since the UN sponsored elections progress in this direction has been slow, if at all.

7. Cambodia lacks a functioning criminal justice system because there is

   a. No penal code. The existing code consists of about forty offences drawn up as a guideline by the UN Transitional Authority on Cambodia (UNTAC). The Cambodian Ministry of Justice has been drafting an adequate code but it has not been produced, despite many claims that it is nearing completion. There seems little likelihood of a penal code being adopted in the near future.

   b. No basic criminal procedure code. One new draft has been circulating, but this has been based on the socialist justice model employed from 1984 to 1992, before UNTAC and adoption of the new Constitution. Differences of opinion about the criminal procedure code – whether the former system of socialist justice should continue or whether liberal democratic principles should be used as the norms, on the basis of the 1993 Constitution, which declares Cambodia a liberal democracy – have not been settled. For all practical purposes, the old socialist system continues, as most judges are products of the pre-UNTAC period.

   c. No professionally competent judiciary.

8. Without serious reforms, Cambodia will not be able to honour its obligations under the ICCPR. The situation will continue to degenerate, as more people are encouraged or permitted by law-enforcement agencies to engage in barbaric practices such as killings and other gross human rights abuses.